



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,712	10/29/2001	Anthony Lionel Creed	50R4793	2617

7590 04/30/2004
Rogitz & Associates
Suite 3120
750 B Street
San Diego, CA 92101

EXAMINER

KOSTAK, VICTOR R

ART UNIT	PAPER NUMBER
----------	--------------

2614

5

DATE MAILED: 04/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/003,712

Applicant(s)

CREED ET AL.

Examiner

Victor R. Kostak

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Art Unit: 2614

1. Claims 1-13 are objected to because of the following informalities: in line 7 of claim 1, "having" is presented as a compressed run-on word, as if a monogram. Likewise is "media" in line 4 of claim 6. Appropriate correction is required.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-11, 13-15 and 17-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Garr et al.

Garr (noting particularly Figs. 1 and 2) configures multiple devices based on dedicated sets of control codes (e.g. col. 3 lines 9-18), the devices including (but not limited to) a television 20, a VCR 16, and a cable decoder 12 (e.g. col. 4 lines 7-11), a VCR shown connected to a television in Figs. 1 and 2. The video tape (which is portable) with the device codes is engageable with the VCR and with the TV 20 through the VCR, as shown in Fig. 1, (the embodiment shown in Fig. 2 having the control codes sent to separate decoder 26 which is engageable with the devices wirelessly, the decoder being portable, i.e. detachable and removable). Garr also points out that the peripheral devices ^{can} ~~and~~ be engaged with the decoder 26 directly and individually (col. 5 lines 20-24). The respective devices receive the control codes corresponding to set-up instructions from the tape or decoder 26, and the instructions are displayed on the TV (e.g. col. 6 lines 37-43), thereby meeting claims 1, 3, 6, 7, 9, 14, 15 and 17.

Art Unit: 2614

As for claims 4 and 6, the set-up procedure can be dynamically carried out by using the type or device model number (e.g. col. 6 lines 9-15).

As for claim 5, the TV and VCR are connected to a cable network by unit 12.

Regarding claims 10, 11, 18, 19 and 20, the claimed second peripheral device reads on the cable receiver 12, and the set-up instructions are also displayed on the TV for informing the viewer (as are the instructions for all of the appliances).

As for claims 13 and 21, the control code data (set-up data) can be obtained through the television signal which is received through the cable network (col. 8 lines 59-63).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garr et al. in view of Kamieniecki.

Garr points out that his invention is not limited to a VCR tape medium (col. 8 lines 56-59), thereby giving explicit suggestion to one of ordinary skill in the art that any suitable medium could be used to transfer set-up code data, the decoder 26 being another explicitly disclosed alternative medium.

Kamieniecki also sets up plural various peripheral devices (Fig. 1) through as set-up device 100 common to the devices. He points out that the medium that contains the set-up

Art Unit: 2614

instructions can be any removable storage media such as magnetic diskettes, memory cards (which covers flash memories), memory sticks, and cartridges (page 5 section[0046]).

In view of this explicit allowance given by Kamieniecki, in view of the open-ended allowance by Garr, and in view of the common field of endeavor and further the exact intention, it would accordingly have been obvious to one of ordinary skill in the art to use any suitable medium, such as a flash memory, in the system of Garr, for providing set-up instructions to multiple peripheral devices, thereby meeting claims 2, 12 and 16.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor R. Kostak whose telephone number is 703 305-4374. The examiner can normally be reached on Monday - Friday from 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 703 305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 872-9306 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 308-HELP.

L. h 40

Victor R. Kostak
Primary Examiner
Art Unit 2614

VRK